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April 7, 2009

Douglas F. Mundrick, Chief
Clean Water Enforcement Branch
Water Protection Division
U.S. Environmental Protection Agency
Region 4
Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960

Re: Administrative Order No. CWA-04-2009-4777 – Dalton Utilities

Dear Mr. Mundrick:

As counsel for Dalton Utilities, I have been asked to respond to your March 31, 2009, letter with enclosures to Mr. Don Cope, President and CEO of Dalton Utilities.

Dalton Utilities disagrees with the opening paragraph of the March 31, 2009, letter and Paragraph 1 of the Administrative Order ("AO") which conclude that Dalton Utilities has violated Section 405 of the Clean Water Act, 33 U.S.C. § 1345. Dalton Utilities also objects to the premise on which Section III of the AO is based in that EPA has made erroneous findings in Paragraphs 8 and 9 of the AO's Findings in that Dalton Utilities does not dispose of sewage sludge via land application as that term is defined in the applicable regulations at 40 C.F.R. Part 503.11(h).

As will be further described, all work by Dalton Utilities in managing its biosolids is in compliance with applicable Georgia laws and regulations. Dalton Utilities believes that EPA could have handled this matter differently before resorting to the AO. It is my understanding that the Georgia EPD had no knowledge of your action until after it was taken.

To the extent your action was motivated by the potential presence of PFCs in biosolids that Dalton Utilities manages as described in Paragraph 13.i of the AO, Dalton Utilities has no ongoing, or prior, sampling activity to determine the presence of PFCs in its biosolids.

Douglas F. Mundrick, Chief

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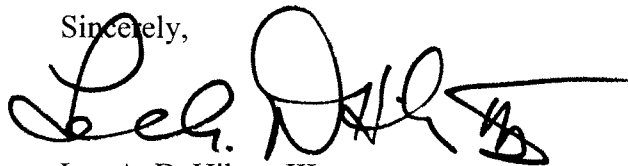
The biosolids that are generated by Dalton Utilities in its wastewater treatment operations are subsequently composted. That material is sold or given away by a third party. The land application of sludge in Georgia is subject to the Georgia Water Quality Control Act, O.C.G.A. § 12-5-30.3. Dalton Utilities sludge is exempt from that section under § 12-5-30.3(a)(1), where the term sludge is defined to exclude sludge that has been treated by composting. The biosolids handling activities at Dalton Utilities are specifically exempt from EPD's Biosolids rules under 391-3-6-.17(2)(gg), which excludes sludge as defined in § 12-5-30.3(a)(1). Even if the biosolids generated at Dalton Utilities were somehow subject to the Biosolids rules, they would be separately excluded under 391-3-6-.17(3)(b)(5), as falling within the exception "disposal of Sewage Sludge by means other than in land application at agronomic rates."

The State of Georgia also exempts the composted material from regulation under the Georgia Solid Waste Disposal Act as a "recovered material" under EPD Rule 391-3-.04(7)(f). Also, under EPD Rule 391-3-4.06(3)(e), the beneficial reuse or recycling of Dalton's composted biosolids has been authorized by a permit by rule. Moreover, the Georgia EPD under its Rule 391-3-4-.16 has approved Dalton Utilities composting of its sewage sludge, pursuant to the permit by rule previously mentioned, and pursuant to the Composting Rule 391-3-4-.16, Dalton Utilities has complied with all the standards that are applicable to the composting operations.

Since the composting of the sewage sludge has a permit by rule, and is exempt from permitting under the Georgia Solid Waste Disposal Act, there is no obligation for it to receive a permit under the Georgia Water Quality Control Act Biosolids Rules in 391-3-6-.17.

With regard to Biosolids sampling and handling information at Dalton Utilities sought in Section III of the AO, we recommend that EPA contact the Watershed Protection Branch at GA EPD as Dalton Utilities has been sending Biosolids Annual Reports to EPD since the composting operation began in 2003. A copy of the most recent letter to EPD dated March 30, 2009 describing the composting operation is enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee A. DeHihns, III", with a long horizontal flourish extending to the right.

Lee A. DeHihns, III

LAD:gba

Enclosure

cc :

Dr. Carol A. Couch, Director, GA Environmental Protection Division

Bert Langley, Mountain District Manager, GA Environmental Protection Division



March 30, 2009

Ms. Audrey Godfrey
Compliance and Enforcement Program
Georgia Environmental Protection Division
4220 International Parkway, Suite 101
Atlanta, GA 30354

**RE: 2008 Biosolids Annual Report
Dalton Utilities Land Application System
LAS Permit #: GA 02-056**

Dear Ms. Godfrey:

In response to your email dated February 20, 2009, Dalton Utilities has two National Pollutant Discharge Elimination System (NPDES) permits for direct discharging wastewater treatment facilities and one Land Application System (LAS) permit for three non-discharging wastewater treatment facilities.

All of the biosolids generated by the Whitfield Acres Wastewater Treatment Plant (WWTP), NPDES Permit # GA0047848, and Mill Creek WWTP, NPDES Permit # GA0038946, are transported to the Dalton Utilities Land Application System (LAS) by Dalton Utilities or a contract wastehauler. Once transported to the LAS, these biosolids are added to the biosolids generated by the non-discharging wastewater treatment facilities located on Dalton Utilities LAS and further treated in the aerobic digester. Then, all the remaining biosolids are dewatered at the on-site biosolids handling facility, mixed with wood waste, and further processed as compost. The compost is then sold or given away by a third party.

This information was submitted to the Georgia Environmental Protection Division (EPD) on the Biosolids Annual Report (BAR) for the two NPDES permitted facilities in January 2009. As the LAS permit is not a NPDES permit, the compost report for the LAS was submitted in January 2009 in the same format that has been submitted to the EPD since the composting operation began in 2003 and not on the new BAR form as required for NPDES permits.

Ms. Andrey Godfrey
March 27, 2009
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At your request, a BAR form is also being submitted for the LAS permit. Upon review, you will notice all the biosolids generated by all of Dalton Utilities' wastewater treatment facilities are further processed as compost and not land applied.

Land application as defined by the Georgia Department of Natural Resources Environmental Protection Division's Water Quality Control Rules 391-3-6-.17(2)(u) is "the spraying or spreading of sewage sludge on the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil at agronomic rates for the purpose of soil conditioning or fertilization of crops or vegetation grown in the soil". Additionally, sewage sludge is defined as "the solid, semi-solid, or liquid residue generated during the treatment of domestic sewage or a combination of domestic sewage and industrial wastewater in a treatment works... Sewage sludge does not include ash generated during the firing of sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, treated effluent, or materials excluded from definition of 'sewage sludge' by OCGA § 12-5-30.3(a)(1)" and biosolids as "any sewage sludge, as defined in 391-3-6-.17 (2)(gg), that fulfills all requirements under [391-3-6-.17], and is used in a beneficial manner" per in 391-3-6-.17 (2)(gg) and 391-3-6-.17 (2)(h), respectively.

Per the Official Code of Georgia Annotated (OCGA) Section 12-5-30.3(a)(1), sludge further treated as compost is specifically excluded from the definition of sludge stated therein and as incorporated by reference into the definitions stated in 391-3-6-.17; therefore, as the biosolids generated by Dalton Utilities wastewater treatment facilities are further processed as compost, these solids are no longer sludge nor biosolids and are not land applied. As such, only the first two pages on the enclosed BAR for the LAS permit are completed per the form instructions and 391-3-6-.17.

For your convenience, I have enclosed a copy of the previously submitted reports in addition to the LAS composting information transcribed onto the BAR form, requested copies of the laboratory analysis reports, and certification statement on a separate page.

Please do not hesitate to contact me at 706-529-1010 or dhaverland@dutil.com with any questions or comments.

Sincerely,


Dena Haverland

Enclosures (6)

c: Stan Donehoo, GA EPD
Internal Distribution List 2